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5 Attorneys for Defendants
6 Haier US Appliance Solutions, Inc.,
d/b/a GE Appliances, and
7 Home Depot USA, Inc.

8
9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 ROLANDO MUNOZ and JOANNA) **Case No.**
FRAIRE,)
13) **DEFENDANT HAIER US**
Plaintiffs,) **APPLIANCE SOLUTIONS, INC.’S**
14) **NOTICE OF REMOVAL OF ACTION**
vs.) **PURSUANT TO 28 U.S.C. § 1441(a)**
15)
HOME DEPOT USA, INC.; HAIER US)
16 APPLIANCE SOLUTIONS, INC. dba GE)
APPLIANCES, and DOES 1 to 50,)
17 inclusive,)
18 Defendants.)
19 _____)

20 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

21 PLEASE TAKE NOTICE that Defendant Haier US Appliance Solutions, Inc., d/b/a
22 GE Appliances (“GEA”) hereby removes to this Court the state court action described below:
23 1. This is a civil action of which this Court has original jurisdiction under 28 U.S.C.
24 section 1332 and is one that may be removed to this Court by GEA pursuant to 28 U.S.C.
25 section 1441(a).

26 **FACTUAL SUMMARY**

27 2. On November 26, 2019, Plaintiffs Rolando Munoz and Joanna Fraire filed an
28 action in the Superior Court of the State of California for the County of Sacramento entitled

1 *Rolando Munoz, et al. v. Home Depot USA, Inc., et al.*, Case No. 34-2019-00270045. The case
2 arises out of a residential fire in Sacramento County, California. Plaintiffs allege that on July 13,
3 2019, Ms. Fraire’s stove “exploded,” causing third-degree burns to Mr. Munoz’s body. Plaintiffs
4 assert claims against GEA and Home Depot USA, Inc. (“Home Depot”) for negligence, products
5 liability, and intentional infliction of emotional distress. No other defendants have been named
6 in the action.

7 **GROUND FOR REMOVAL**

8 3. This is a civil action between citizens of different states and the amount in
9 controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. §§ 1332(a)(1), 1441(a).

10 4. Plaintiffs reside in Sacramento County and are citizens of the State of California.

11 5. GEA is organized and existing under the laws of the State of Delaware, with its
12 principal place of business in Louisville, Kentucky.

13 6. Home Depot is organized and existing under the laws of the State of Delaware,
14 with its principal place of business in Atlanta, Georgia.

15 7. The amount in controversy exceeds \$75,000.00. Plaintiffs’ complaint alleges that
16 the stove “exploded,” causing third-degree burns to Mr. Munoz’s body. A fundraising account
17 co-organized by Ms. Fraire states that Mr. Munoz was “seriously injured” with “horrific” burns
18 to 36% of his body, including his stomach, back, neck, ears and face. (*See Rolando Munoz:*
19 *Burn Medical/Recovery Fund*, [https://www.gofundme.com/f/rolando-munoz-burn-](https://www.gofundme.com/f/rolando-munoz-burn-medicalrecovery-fund)
20 *medicalrecovery-fund* (last visited January 22, 2020).) Plaintiffs’ complaint further alleges—and
21 the GoFundMe account confirms—that Mr. Munoz was hospitalized in an ICU burn unit and
22 anticipated a 4- to 6-month recovery period. The complaint also alleges that Ms. Fraire suffered
23 “serious emotional distress” as a result of the event.

24 8. Removal to this Court is timely, as GEA was served with a copy of Plaintiffs’
25 summons and complaint on January 3, 2020 and filed this notice of removal fewer than 30 days
26 later. 28 U.S.C. § 1446(b).

27 ///

28 ///

JURISDICTION

9. Plaintiffs filed suit in the Superior Court of California for the County of Sacramento.

10. This action is properly removed to the United States District Court for the Eastern District of California because it is the district embracing Sacramento County, California, where the state court action is pending. *See* 28 U.S.C. §§ 1391, 1441(a).

INTRADISTRICT VENUE

11. Pursuant to Local Rule 120, this action is properly assigned to the Sacramento division of this Court because the action commenced in Sacramento County.

PLEADINGS IN THE STATE COURT ACTION

12. A copy of all pleadings, orders, and process from the state court action has been filed as **Exhibit A** hereto. A copy of this notice has been served on all parties of record and will be filed with the Clerk of the Superior Court of the State of California for the County of Sacramento. 28 U.S.C. § 1446(a).

Dated: January 29, 2020

GLYNN & FINLEY, LLP
JAMES M. HANLON, JR.
BRANDON P. RAINEY
One Walnut Creek Center
100 Pringle Avenue, Suite 500
Walnut Creek, CA 94596

By /s/ Brandon P. Rainey
Attorneys for Defendants
Haier US Appliance Solutions, Inc. d/b/a
GE Appliances and Home Depot USA,
Inc.

EXHIBIT A

1/26/20 e 255

SUM-100

SUMMONS (CITACION JUDICIAL)

NOTICE TO DEFENDANT: (AVISO AL DEMANDADO):

HOME DEPOT USA, INC.; HAIER US APPLIANCE SOLUTIONS, INC. dba GE APPLIANCES, and DOES 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF: (LO ESTÁ DEMANDANDO EL DEMANDANTE):

ROLANDO MUNOZ and JOANNA FRAIRE

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

Superior Court Of California,
Sacramento

11/26/2019

rgomez5

By _____, Deputy

Case Number:

34-2019-00270045

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos oídos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es): SACRAMENTO COUNTY SUPERIOR
GORDON D. SHABER DOWNTOWN COURTHOUSE
720 9TH STREET, SACRAMENTO, CALIFORNIA 95814

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Lawrance A. Bohm: 4600 Northgate Boulevard, Suite 210, Sacramento, California 95834; 916.927.5574

DATE: NOV 26 2019
(Fecha)

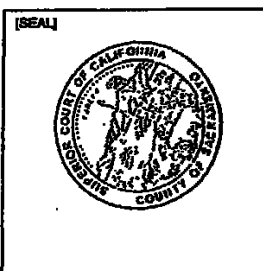
Clerk, by
(Secretario)

R. GOMEZ

Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

Haier US Appliance Solutions Inc.
dba GE Appliances

3. ☒ on behalf of (specify):

under: ☒ CCP 416.10 (corporation)

☐ CCP 416.20 (defunct corporation)

☐ CCP 416.40 (association or partnership)

☐ other (specify):

☐ CCP 416.60 (minor)

☐ CCP 416.70 (conservatee)

☐ CCP 416.90 (authorized person)

4. ☒ by personal delivery on (date): 1/26/20

Page 1 of 1

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Judicial Council of California
SUM-100 (Rev. July 1, 2009)

SUMMONS

Code of Civil Procedure §§ 412.20, 485
www.courtinfo.ca.gov

SUM-100

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

HOME DEPOT USA, INC.; HAIER US APPLIANCE SOLUTIONS, INC. dba GE APPLIANCES, and DOES 1-50, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

ROLANDO MUNOZ and JOANNA FRAIRE

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED

**Superior Court Of California,
Sacramento**

11/26/2019

rgomez5

By _____, Deputy

Case Number:

34-2019-00270045

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There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. ¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

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GORDON D. SHABER DOWNTOWN COURTHOUSE
720 9TH STREET, SACRAMENTO, CALIFORNIA 95814**

CASE NUMBER:
(Número del Caso):

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Lawrance A. Bohm: 4600 Northgate Boulevard, Suite 210, Sacramento, California 95834; 916.927.5574

DATE:

(Fecha) **NOV 26 2019**

Clerk, by

(Secretario)

R. GOMEZ

, Deputy

(Adjunto)

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NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.

2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

under: ☐ CCP 416.10 (corporation)

☐ CCP 416.60 (minor)

☐ CCP 416.20 (defunct corporation)

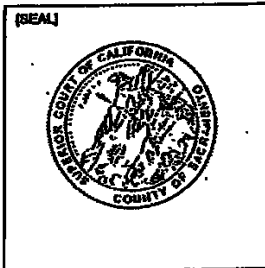
☐ CCP 416.70 (conservatee)

☐ CCP 416.40 (association or partnership)

☐ CCP 416.90 (authorized person)

☐ other (specify):

4. ☐ by personal delivery on (date):



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SUMMONS

Page 1 of 1
Code of Civil Procedure §§ 412.20, 405
www.courtinfo.ca.gov

PLD-PI-001

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Lawrence A. Bohm (SBN: 208716) & Victoria L. Gutierrez (SBN: 282715) BOHM LAW GROUP 4600 Northgate Boulevard, Suite 210 Sacramento, CA 95834 TELEPHONE NO: 866.920.1292 FAX NO. (Optional): 916.927.2046 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiffs, ROLANDO MUNOZ and JOANNA FRAIRE		FILED Superior Court Of California, Sacramento 11/26/2019 rgomez5 By _____, Deputy Case Number: 34-2019-00270045
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SACRAMENTO STREET ADDRESS: 720 9TH STREET MAILING ADDRESS: SAME CITY AND ZIP CODE: SACRAMENTO, 95814 BRANCH NAME: Gordon D. Schaber Downtown Courthouse PLAINTIFF: ROLANDO MUNOZ and JOANNA FRAIRE DEFENDANT: HOME DEPOT USA, INC.; HAIER US APPLIANCE SOLUTIONS, INC. dba GE APPLIANCES, and <input checked="" type="checkbox"/> DOES 1 TO 50 inclusive. COMPLAINT—Personal Injury, Property Damage, Wrongful Death <input type="checkbox"/> AMENDED (Number): Type (check all that apply): <input type="checkbox"/> MOTOR VEHICLE <input type="checkbox"/> OTHER (specify): <input type="checkbox"/> Property Damage <input type="checkbox"/> Wrongful Death <input checked="" type="checkbox"/> Personal Injury <input checked="" type="checkbox"/> Other Damages (specify): Jurisdiction (check all that apply): <input type="checkbox"/> ACTION IS A LIMITED CIVIL CASE Amount demanded <input type="checkbox"/> does not exceed \$10,000 <input type="checkbox"/> exceeds \$10,000, but does not exceed \$25,000 <input checked="" type="checkbox"/> ACTION IS AN UNLIMITED CIVIL CASE (exceeds \$25,000) <input type="checkbox"/> ACTION IS RECLASSIFIED by this amended complaint <input type="checkbox"/> from limited to unlimited <input type="checkbox"/> from unlimited to limited		
		CASE NUMBER:

1. Plaintiff (name or names): **ROLANDO MUNOZ and JOANNA FRAIRE**
 alleges causes of action against defendant (name or names):
Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances
2. This pleading, including attachments and exhibits, consists of the following number of pages:
3. Each plaintiff named above is a competent adult
- a. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):
- b. ☐ except plaintiff (name):
- (1) ☐ a corporation qualified to do business in California
 - (2) ☐ an unincorporated entity (describe):
 - (3) ☐ a public entity (describe):
 - (4) ☐ a minor ☐ an adult
 - (a) ☐ for whom a guardian or conservator of the estate or a guardian ad litem has been appointed
 - (b) ☐ other (specify):
 - (5) ☐ other (specify):

☐ Information about additional plaintiffs who are not competent adults is shown in Attachment 3.

PLD-PI-001

SHORT TITLE: MUNOZ, et al. v. HOME DEPOT USA, INC., et al.	CASE NUMBER:
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4. ☐ Plaintiff (name): _____
 is doing business under the fictitious name (specify): _____
 and has complied with the fictitious business name laws.
5. Each defendant named above is a natural person
- a. ☒ except defendant (name): See Attachment No. 1
- (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe): _____
 (4) ☐ a public entity (describe): _____
 (5) ☐ other (specify): _____
- b. ☒ except defendant (name): See Attachment No. 1
- (1) ☐ a business organization, form unknown
 (2) ☒ a corporation
 (3) ☐ an unincorporated entity (describe): _____
 (4) ☐ a public entity (describe): _____
 (5) ☐ other (specify): _____
- c. ☐ except defendant (name): _____
- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe): _____
 (4) ☐ a public entity (describe): _____
 (5) ☐ other (specify): _____
- d. ☐ except defendant (name): _____
- (1) ☐ a business organization, form unknown
 (2) ☐ a corporation
 (3) ☐ an unincorporated entity (describe): _____
 (4) ☐ a public entity (describe): _____
 (5) ☐ other (specify): _____
- ☐ Information about additional defendants who are not natural persons is contained in Attachment 5.
6. The true names of defendants sued as Does are unknown to plaintiff.
- a. ☒ Doe defendants (specify Doe numbers): 1-25 were the agents or employees of other named defendants and acted within the scope of that agency or employment.
- b. ☒ Doe defendants (specify Doe numbers): 26-50 are persons whose capacities are unknown to plaintiff.
7. ☐ Defendants who are joined under Code of Civil Procedure section 382 are (names): _____
8. This court is the proper court because
- a. ☐ at least one defendant now resides in its jurisdictional area.
 b. ☐ the principal place of business of a defendant corporation or unincorporated association is in its jurisdictional area.
 c. ☒ injury to person or damage to personal property occurred in its jurisdictional area.
 d. ☐ other (specify): _____
9. ☐ Plaintiff is required to comply with a claims statute, and
- a. ☐ has complied with applicable claims statutes, or
 b. ☐ is excused from complying because (specify): _____

PLD-PI-001

SHORT TITLE: MUNOZ, et al. v. HOME DEPOT USA, INC., et al.	CASE NUMBER:
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10. The following causes of action are attached and the statements above apply to each (each complaint must have one or more causes of action attached):

- a. ☐ Motor Vehicle
- b. ☒ General Negligence
- c. ☒ Intentional Tort
- d. ☒ Products Liability
- e. ☐ Premises Liability
- f. ☐ Other (specify):

11. Plaintiff has suffered

- a. ☒ wage loss
- b. ☒ loss of use of property
- c. ☒ hospital and medical expenses
- d. ☒ general damage
- e. ☒ property damage
- f. ☒ loss of earning capacity
- g. ☒ other damage (specify):

Physical pain, mental suffering, loss of enjoyment of life, physical impairment, inconvenience, grief, anxiety, humiliation, and emotional distress

12. ☐ The damages claimed for wrongful death and the relationships of plaintiff to the deceased are

- a. ☐ listed in Attachment 12.
- b. ☐ as follows:

13. The relief sought in this complaint is within the jurisdiction of this court.

14. Plaintiff prays for judgment for costs of suit; for such relief as is fair, just, and equitable; and for

- a. (1) ☒ compensatory damages
- (2) ☒ punitive damages

The amount of damages is (in cases for personal injury or wrongful death, you must check (1)):

- (1) ☒ according to proof
- (2) ☐ in the amount of: \$

15. ☒ The paragraphs of this complaint alleged on information and belief are as follows (specify paragraph numbers):

As to all Paragraphs

Date: November 26, 2019

Victoria L. Gutierrez, Esq.

(TYPE OR PRINT NAME)

(SIGNATURE OF PLAINTIFF OR ATTORNEY)

PLD-PI-001 [Rev. January 1, 2007]

COMPLAINT—Personal Injury, Property
Damage, Wrongful Death

Page 3 of 3

MC-025

SHORT TITLE: MUNOZ, et al. v. HOME DEPOT USA, INC., et al.	CASE NUMBER:
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ATTACHMENT (Number): 1

(This Attachment may be used with any Judicial Council form.)

5. Each Defendant named above is a natural person:

a. Except Defendant: HOME DEPOT USA, INC.
(2) a corporation

b. Except Defendant: HAIER US APPLIANCE SOLUTIONS, INC. dba GE APPLIANCES
(2) a corporation

(If the item that this Attachment concerns is made under penalty of perjury, all statements in this Attachment are made under penalty of perjury.)

Page 1 of 4

(Add pages as required)

Form Approved for Optional Use
Judicial Council of California
MC-025 (Rev. July 1, 2013)

ATTACHMENT
to Judicial Council Form

www.courtinfo.ca.gov

PLD-PI-001(2)

SHORT TITLE: MUNOZ, et al. v. HOME DEPOT USA, INC., et al.	CASE NUMBER: 1
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FIRST
(number)

CAUSE OF ACTION—General Negligence

Page 2

ATTACHMENT TO ☒ Complaint ☐ Cross-Complaint

(Use a separate cause of action form for each cause of action.)

GN-1. Plaintiff (name): Rolando Munoz

alleges that defendant (name): Home Depot USA, Inc. and
Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant negligently caused the damage to plaintiff

on (date): July 13, 2019

at (place): 8976 Garnet Peak Way, Sacramento, California 95829

(description of reasons for liability):

On July 13, 2019, in the early morning hours, Rolando Munoz was making breakfast for himself and his fiance Joanna Fraire at their place of dwelling located at 8976 Garnet Peak Way, Sacramento, California 95829. Without warning, the stove exploded causing third degree burns to Mr. Munoz's body. After experiencing Mr. Munoz's injuries, Ms. Fraire quickly drove him to Kaiser Bruceville in Sacramento, California, for treatment.

In or around July 2018, the Plaintiff purchased and paid for installation of a General Electric Appliances Stove from Home Depot, Store 6620 Power Inn, at 8000 Folsom Blvd., Sacramento, California 95826.

In or around July 2018, Home Depot, Store 6620, installed Plaintiff's purchased stove at his dwelling located at 8976 Garnet Peak Way, Sacramento, California 95829. Said unit was brand new when purchased, shipped, and installed.

The Plaintiff's General Electric Appliances Stove has the Product Model Number JGBS66REK3SS and Serial Number 138455P.

Plaintiff believes, and thereon alleges, that Home Depot USA, Inc.'s and Haier US Appliance Solutions, Inc. dba GE Appliances' actions were negligent, breached their duty of care, and each action was a substantial factor in causing harm to Plaintiff.

As described above Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances, by and through their managing agents, acted with the requisite malice for imposition of punitive damages. Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances, placed a product on the market in conscious disregard of the safety of consumers and others. Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances, were aware of the probable dangerous consequences of their conduct and wilfully and deliberately failed to avoid those consequences.

Page 1 of 1

Form Approved for Optional Use
Judicial Council of California
PLD-PI-001(2) (rev. January 1, 2007)

CAUSE OF ACTION—General Negligence

Code of Civil Procedure 425.12
www.courtinfo.ca.gov

PLD-PI-001(5)

SHORT TITLE: MUNOZ, et al. v. HOME DEPOT USA, INC., et al.	CASE NUMBER:
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SECOND
(number)

CAUSE OF ACTION—Products Liability

Page 3

ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint
(Use a separate cause of action form for each cause of action.)

Plaintiff (name): Rolando Munoz

Prod. L-1. On or about (date): July 13, 2019

plaintiff was injured by the following product:

The Plaintiff's General Electric Appliances Stove with the Product Model Number JGBS66REK3SS and Serial Number 138455P

Prod. L-2. Each of the defendants knew the product would be purchased and used without inspection for defects. The product was defective when it left the control of each defendant. The product at the time of injury was being

☒ used in the manner intended by the defendants.☐ used in the manner that was reasonably foreseeable by defendants as involving a substantial danger not readily apparent. Adequate warnings of the danger were not given.

Prod. L-3. Plaintiff was a

☒ purchaser of the product.☒ user of the product.☒ bystander to the use of the product.☐ other (specify):

PLAINTIFF'S INJURY WAS THE LEGAL (PROXIMATE) RESULT OF THE FOLLOWING:

Prod. L-4. ☒ Count One—Strict liability of the following defendants whoa. ☒ manufactured or assembled the product (names):

Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50b. ☒ designed and manufactured component parts supplied to the manufacturer (names):

Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50c. ☒ sold the product to the public (names):

Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50Prod. L-5. ☒ Count Two—Negligence of the following defendants who owed a duty to plaintiff (names):

Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50Prod. L-6. ☒ Count Three—Breach of warranty by the following defendants (names):

Home Depot USA, Inc. and Haier US Appliance Solutions, Inc. dba GE Appliances

☒ Does 1 to 50a. ☒ who breached an implied warrantyb. ☐ who breached an express warranty which was☐ written ☐ oralProd. L-7. ☐ The defendants who are liable to plaintiffs for other reasons and the reasons for the liability are☐ listed in Attachment-Prod. L-7 ☐ as follows:

PLD-PI-001(3)

SHORT TITLE:

MUNOZ, et al. v. HOME DEPOT USA, INC., et al.

CASE NUMBER

THIRD
(number)**CAUSE OF ACTION—Intentional Tort**Page 4ATTACHMENT TO ☒ Complaint ☐ Cross - Complaint

(Use a separate cause of action form for each cause of action.)

IT-1. Plaintiff (name): Joanna Fraire

alleges that defendant (name): Home Depot USA, Inc. and
Haier US Appliance Solutions, Inc. dba GE Appliances☒ Does 1 to 50

was the legal (proximate) cause of damages to plaintiff. By the following acts or omissions to act, defendant intentionally caused the damage to plaintiff
on (date): July 13, 2019

at (place): 8976 Garnet Peak Way, Sacramento, California 95829

(description of reasons for liability):

Home Depot USA, Inc. and Haier US Appliance Solutions dba GE Appliances were negligent in their manufacturing, designing, and production of their stove, installation of their stove, and placing the stove into the stream of commerce. Plaintiff Joanna Fraire suffered serious emotional distress viewing her fiancé in a horrific state (third degree burns, bleeding, injured). Home Depot USA, Inc. and Haier US Appliance Solutions dba GE Appliances' negligence was a substantial factor in causing Fraire's serious emotional distress.

Page 1 of 1

1 GLYNN & FINLEY, LLP
JAMES M. HANLON, JR., Bar No. 214096
2 BRANDON P. RAINEY, Bar No. 272341
One Walnut Creek Center
3 100 Pringle Avenue, Suite 500
Walnut Creek, CA 94596
4 Telephone: (925) 210-2800
Facsimile: (925) 945-1975
5
6 Attorneys for Defendants
Home Depot USA, Inc. and
Haier US Appliance Solutions, Inc. dba GE Appliances
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SACRAMENTO

10)	Case No. 34-2019-00270045
11	ROLANDO MUNOZ and JOANNA)	
12	FRAIRE,)	ANSWER TO COMPLAINT BY
13	Plaintiffs,)	DEFENDANT HAIER US APPLIANCE
14	vs.)	SOLUTIONS, INC. d/b/a GE
15	HOME DEPOT USA, INC.; HAIER US)	APPLIANCES
16	APPLIANCE SOLUTIONS, INC. dba GE)	
17	APPLIANCES, and DOES 1 to 50,)	Date Filed: November 26, 2019
18	inclusive,)	Trial Date: N/A
	Defendants.)	

19 Defendant Haier US Appliance Solutions, Inc. ("Defendant") answers Plaintiffs'
20 unverified complaint by generally denying each and every allegation therein pursuant to the
21 provisions of Code of Civil Procedure section 431.30. Defendant further avers the following
22 affirmative defenses:

23 **AFFIRMATIVE DEFENSES**

24 **FIRST DEFENSE**

25 (Failure to State a Claim)

26 1. As a separate and additional defense, Defendant avers that the Complaint and each
27 purported cause of action therein fails to state facts sufficient to constitute a cause of action
28 against Defendant.

SECOND DEFENSE

(Estoppel)

2. As a separate and additional defense, Defendant avers on information and belief that Plaintiffs' claims are barred by the doctrine of equitable estoppel.

THIRD DEFENSE

(Comparative Negligence)

3. As a separate and additional defense, Defendant avers on information and belief that all alleged damages and/or injuries that are the subject of this litigation were caused solely and entirely by the negligence of Plaintiffs and/or the negligence of parties other than Defendant, thus barring or proportionately reducing Plaintiffs' purported right to recover against Defendant.

FOURTH DEFENSE

(Third Party Control)

4. As a separate and additional defense, Defendant avers on information and belief that if, in fact, any risks or dangers were associated with the use of the product referred to in Plaintiffs' complaint, such risks and dangers were entirely attributable to the improper conduct and activities of Plaintiffs and/or third parties while the product was in the exclusive control and custody of those persons or entities, and that such risks and dangers were entirely unknown to Defendant.

FIFTH DEFENSE

(Several Liability)

5. As a separate and additional defense, Defendant avers that should Plaintiffs recover damages from Defendant, that Defendant is entitled to indemnification, in whole or in part, from all persons and entities whose negligence, fault, or other conduct proximately contributed to said damages, and Defendant is further entitled to have the amount of said damages reduced to reflect its several contribution, if any, to said claimed damages. In addition, pursuant to California Civil Code section 1431.2, also known as Proposition 51, the California Fair Responsibility Act, in the event Defendant is found in some way liable for Plaintiffs' injuries or damage, Defendant may only be liable for the amount of non-economic damages in

1 direct proportion to their respective percentages of fault.

2 **SIXTH DEFENSE**

3 (Intervening/Superseding Acts)

4 6. As a separate and additional defense, Defendant avers on information and belief
5 that Plaintiffs' damages were caused by the intervening and superseding acts of Plaintiffs and/or
6 a third party or third parties, thus barring Plaintiffs' claimed right to recover against Defendant.

7 **SEVENTH DEFENSE**

8 (Benefits of Design Outweighed Risk)

9 7. As a separate and additional defense, Defendant avers that the benefits of the
10 design of the product referred to in the complaint outweighed the risk, if any, inherent in such
11 design and that said product was state of the art.

12 **EIGHTH DEFENSE**

13 (Misuse or Abuse of Product)

14 8. As a separate and additional defense, Defendant avers on information and belief
15 that Plaintiffs' alleged damages resulted from misuse, abuse, or improper maintenance of the
16 product alleged in the complaint, and said product was not used in accordance with printed
17 instructions, warnings, and other printed literature concerning its use, and/or that the product was
18 altered, modified, or changed by others, thus barring Plaintiffs' recovery against Defendant.

19 **RESERVATION OF ADDITIONAL DEFENSES**

20 9. Defendants reserves the right to assert additional defenses based on pretrial
21 discovery.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Defendant seeks judgment as follows:

- 24 1. That Plaintiffs' complaint be dismissed with prejudice;
25 2. That Defendant be awarded judgment in its favor and against Plaintiffs;
26 3. That the Court award Defendant its costs and disbursements incurred herein; and

27 ///

28 ///

1 4. For such other and further relief as this Court deems just and equitable.

2 Dated: January 27, 2020

3 GLYNN & FINLEY, LLP
4 JAMES M. HANLON, JR.
5 BRANDON P. RAINEY
6 One Walnut Creek Center
7 100 Pringle Avenue, Suite 500
8 Walnut Creek, CA 94596

9 By 
10 Attorneys for Defendant
11 Haier US Appliance Solutions, Inc.
12 dba GE Appliances
13
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Docket No. 34-2019-00270045
PROOF OF SERVICE BY MAIL

I, Beverly Carter, the undersigned, hereby certify and declare under penalty of perjury that the following statements are true and correct:

1. I am over the age of 18 years and am not a party to the within cause.
2. My business address is One Walnut Creek Center, 100 Pringle Avenue, Suite 500, Walnut Creek, CA 94596.
3. I am familiar with my employer's mail collection and processing practices; know that said mail is collected and deposited with the United States Postal Service on the same day it is deposited in interoffice mail; and know that postage thereon is fully prepaid.
4. Following said practice, on January 27, 2020 I served a true and correct copy of the attached document entitled exactly:

**ANSWER TO COMPLAINT BY DEFENDANT HAIER US APPLIANCE
SOLUTIONS, INC. d/b/a GE APPLIANCES**

by placing said document in an addressed, sealed envelope and depositing it in regularly maintained interoffice mail to the following:

Lawrence A. Bohm, Esq.
Victoria L. Gutierrez, Esq.
Bohm Law Group
4600 Northgate Boulevard, Suite 210
Sacramento, CA 95834
Telephone: (866) 920-1292
Facsimile: (916) 927-2046

Attorneys for Plaintiffs

Executed this 27th day of January, 2020 at Walnut Creek, California.


Beverly Carter

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2 BRANDON P. RAINEY, Bar No. 272341
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15	HOME DEPOT USA, INC.; HAIER US)	Date Filed: November 26, 2019
16	APPLIANCE SOLUTIONS, INC. dba GE)	Trial Date: N/A
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9 By 
10 Attorneys for Defendant
11 Home Depot USA, Inc.

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